

The Appeals Board agrees with the findings and conclusions expressed by the Administrative Law Judge as contained in her Order of July 18, 1995. In addition to the

factors mentioned by the Administrative Law Judge, the Appeals Board would also point to the following, additional factors which suggest the existence of an employment relationship under the facts of this case:

- a. The services performed by claimant were an integral part of the respondent's trade or business.
- b. Claimant's services were performed within the usual course of and at the usual place of business of respondent.
- c. The duration of claimant's work served to distinguish it from that of an independent contractor because it was not of a specific duration or period of time, nor was it for the completion of a particular job.
- d. Claimant's services were continuous and not intermittent in that the claimant was expected to work a regular shift and not at the claimant's discretion.
- e. Respondent's manager maintained the right to discharge claimant or tell a dancer that her services were no longer desired.

It is also significant under the facts of this case that claimant was never advised that she was considered to be an independent contractor. Even though other dancers testified that they understood that to be their status, when claimant was hired the manager was on vacation and she was apparently not given the same information as were others who were hired by Mr. King.

The evidence in the record taken as a whole establishes that degree of control necessary to bring the relationship between the claimant and respondent within the definition of employment. Their relationship is found to be that of employer-employee and not that of independent contractor. Thus, the Kansas Workers Compensation Act applies to this employment relationship and the employer is hereby found liable to pay compensation to claimant in accordance with the provisions of the Act.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the July 18, 1995 Order of Administrative Law Judge Shannon S. Krysl should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 1995.

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BOARD MEMBER

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c: Garry L. Howard, Wichita, KS  
Jeffery R. Brewer, Wichita, KS  
Shannon S. Krysl, Administrative Law Judge  
Philip S. Harness, Director